

FAX RECEIVED

MAR 16 1998

GROUP 2600

OFFICIAL

45626.0101

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re applications of: Intercoast Energy Company
Serial No.: 08/516,646
Filed: August 18, 1995
Examiner: 2305
Group Art Unit: 2411
For: APPARATUS AND METHOD FOR TRADING
ELECTRIC ENERGY

Assistant Commissioner of
Patents
Washington, D. C. 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to : Assistant Commissioner of Patents, Washington, D.C. 20231 on

Dear Sir:

AFFIDAVIT OF BRENT COMSTOCK

1. I am over the age of 21 and fully competent to make the following statement.
2. I am the Vice President, Information Services for Continental Power Exchange, Inc., the operator of the CPEX system that is disclosed in the above identified application.
3. We began offering the CPEX system for commercial operation in approximately May of 1995.

4. The CPEX system is a network with dedicated computers located in the offices of our participants. The CPEX system implements a method of selling a quantity of electric energy by connecting a first and second participant to a database display and then displaying a price for a quantity of energy.

5. The CPEX system allows participants such as local utility companies access to a database of current electricity availability and price information. Further it allows participants to purchase or sell electricity for short-term consumption. For example, a participant could purchase electricity from another participant for next hour consumption by its customers.

6. The CPEX system has gained widespread acceptance and popularity because it meets a long felt but unsatisfied need in the marketplace. This demonstrated by the chart of MWh traded attached as Exhibit A.

7. Exhibit A clearly demonstrates that the cumulative volume of electricity traded has grown steadily each month.

8. Through July 1997, the CPEX system has been used to trade in excess of 1,000,000 MWh of electricity.

9. The participants to the system include Federal Power Agencies, such as the Tennessee Valley Authority and Western Area Power Administration; investor-owned utilities, such as Central and Southwest Services and MidAmerican Energy Company; municipalities, such as the City of Springfield, Missouri; power marketers, such as SONAT and Aquila; and load aggregators, such as Strategic Energy Limited. A more complete list of customers is included as Exhibit B.

10. The participants in the CPEX system are believed to produce over 50% of the electrical energy in the United States. These participants have joined the CPEX network due to its reliability, but more importantly because CPEX addresses a need which no other company had ever addressed, namely the ability to efficiently and quickly trade short-term physical electricity using a computerized trading floor, including the least-cost path calculations using multiple wheelers.

11. The commercial success experienced by the CPEX system is not merely the result of extensive advertising.

12. The participants to the system have benefited from its availability and have praised it. Samples of their praise are attached as Exhibit C. For example, BC Hydro, a participant in the system, stated in its monthly newsletter that "[CPEX] provides everyone with a higher level of comfort about price comparisons and the timing of a commitment to buy."

13. In view of these praises of market participants, in view of the commercial success of the system, and in view of the CPEX system's satisfaction of long-felt market need, the claims for the CPEX system should be allowed.

Further, Affiant sayeth not.

By: Brent Comstock
Brent Comstock, Vice President, Information Services

Date: Jan 15, 1998

STATE OF GEORGIA

COUNTY OF COBB

§
§
§

BEFORE ME, the undersigned authority, on this day personally appeared BRENT COMSTOCK, known to me to be the person whose name is subscribed to the foregoing Affidavit and acknowledged to me that he executed same for the purposes and consideration therein expressed on this 15th day of January, 1998. *MF*

SEAL

Melvin M. Jefferson
Notary Public in and for
the State of Georgia

Melvin M. Jefferson
Typed or Printed Name of Notary

My Commission Expires:

Notary Public, Cobb County, Georgia
My Commission Expires May 2, 1998